

105TH CONGRESS
1ST SESSION

H. R. 1154

To provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. FALEOMAVAEGA introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Federal Rec-
5 ognition Administrative Procedures Act of 1997”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to establish an administrative procedure to
9 extend Federal recognition to certain Indian groups;

1 (2) to extend to Indian groups which are deter-
2 mined to be Indian tribes the protection, services,
3 and benefits available from the Federal Government
4 pursuant to the Federal trust responsibility;

5 (3) to extend to Indian groups which are deter-
6 mined to be Indian tribes the immunities and privi-
7 leges available to other federally-acknowledged In-
8 dian tribes by virtue of their status as Indian tribes
9 with a government-to-government relationship with
10 the United States;

11 (4) to ensure that when the Federal Govern-
12 ment extends acknowledgment to an Indian tribe, it
13 does so with a consistent legal, factual and historical
14 basis;

15 (5) to establish a commission which will act in
16 a supporting role to petitioning groups applying for
17 recognition;

18 (6) to provide clear and consistent standards of
19 administrative review of documented petitions for
20 Federal acknowledgment;

21 (7) to clarify evidentiary standards and expedite
22 the administrative review process by providing ade-
23 quate resources to process petitions; and

24 (8) to remove the Federal acknowledgment
25 process from the Bureau of Indian Affairs and in-

1 vest it in an independent Commission on Indian
2 Recognition.

3 **SEC. 3. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “acknowledgment” or “acknowl-
6 edged” means a determination by the Commission
7 on Indian Recognition that an Indian group con-
8 stitutes an Indian tribe with a government-to-gov-
9 ernment relationship with the United States, and
10 whose members are recognized as eligible for the
11 special programs and services provided by the Unit-
12 ed States to Indians because of their status as Indi-
13 ans.

14 (2) The term “Bureau” means the Bureau of
15 Indian Affairs.

16 (3) The term “Commission” means the Com-
17 mission on Indian Recognition established pursuant
18 to section 4.

19 (4) The term “Department” means the Depart-
20 ment of the Interior.

21 (5) The term “documented petition” means the
22 detailed, factual exposition and arguments, including
23 all documentary evidence, necessary to demonstrate
24 that these arguments specifically address the manda-
25 tory criteria established in section 5.

1 (6) The term “Indian group” or “group” means
2 any Indian or Alaska Native tribe, band, pueblo, vil-
3 lage or community within the United States that the
4 Secretary of the Interior does not acknowledge to be
5 an Indian tribe.

6 (7) The term “Indian tribe” or “tribe” means
7 any Indian or Alaska Native tribe, band, pueblo, vil-
8 lage or community within the United States included
9 on the Secretary of the Interior’s annual list of ac-
10 knowledgeed tribes.

11 (8) The term “indigenous” means native to the
12 United States in that at least part of the petitioner’s
13 traditional territory extended into what is now the
14 United States.

15 (9) The term “letter of intent” means an un-
16 documented letter or resolution which is dated and
17 signed by the governing body of an Indian group
18 and submitted to the Commission and indicates the
19 group’s intent to submit a petition for Federal ac-
20 knowledgeedgment as an Indian tribe.

21 (10) The term “member of an Indian group”
22 means an individual who is recognized by an Indian
23 group as meeting its membership criteria.

24 (11) The term “member of an Indian tribe”
25 means an individual who meets the membership re-

1 quirements of the tribe as set forth in its governing
2 document or, in the absence of a governing docu-
3 ment which sets out these requirements, has been
4 recognized as a member collectively by those persons
5 comprising the tribal governing body; and has con-
6 sistently maintained tribal relations with the tribe or
7 is listed on the tribal membership rolls as a member,
8 if such rolls are kept.

9 (12) The term “petition” means a petition for
10 acknowledgment submitted or transferred to the
11 Commission pursuant to section 5 of this Act.

12 (13) The term “petitioner” means any group
13 which has submitted a petition or letter of intent to
14 the Commission requesting acknowledgment that it
15 is an Indian tribe or has a petition or letter of intent
16 transferred to the Commission under section 5(a).

17 (14) The term “previous Federal acknowledg-
18 ment” means any action by the Federal Government
19 the character of which is clearly premised on identi-
20 fication of a tribal political entity and clearly indi-
21 cates the recognition of a government-to-government
22 relationship between that entity and the Federal
23 Government.

24 (15) The term “restoration” means the reexten-
25 sion of acknowledgment to any previously acknowl-

1 edged tribe which may have had its acknowledged
2 status abrogated or diminished by reason of congres-
3 sional legislation expressly terminating that status.

4 (16) The term “Secretary” means the Secretary
5 of the Interior.

6 (17) The term “treaty” means any treaty—

7 (A) negotiated and ratified by the United
8 States on or before March 3, 1871, with, or on
9 behalf of, any Indian group or tribe;

10 (B) made by any government with, or on
11 behalf of, any Indian group or tribe, from which
12 government the United States subsequently ac-
13 quired territory by purchase, conquest, annex-
14 ation, or cession; or

15 (C) negotiated by the United States with,
16 or on behalf of, any Indian group, whether or
17 not the treaty was subsequently ratified.

18 (18) The term “tribal roll” means a list exclu-
19 sively of those individuals who have been determined
20 by the tribe to meet the tribe’s membership require-
21 ments as set forth in its governing document or, in
22 the absence of a governing document setting forth
23 those requirements, have been recognized as mem-
24 bers by the tribe’s governing body. In either case,
25 those individuals on a tribal roll must have affirma-

1 tively demonstrated consent to being listed as mem-
2 bers.

3 (19) The term “United States” means the 48
4 contiguous States, Alaska and Hawaii; and does not
5 include territories or possessions.

6 **SEC. 4. COMMISSION ON INDIAN RECOGNITION.**

7 (a) ESTABLISHMENT.—There is established, as an
8 independent commission, the Commission on Indian Rec-
9 ognition.

10 (b) MEMBERSHIP.—(1)(A) The Commission shall
11 consist of three members appointed by the President, by
12 and with the advice and consent of the Senate.

13 (B) In making appointments to the Commission, the
14 President shall give careful consideration to—

15 (i) recommendations received from Indian
16 tribes;

17 (ii) recommendations from Indian groups and
18 professional organizations; and

19 (iii) individuals who have a background in In-
20 dian law or policy, anthropology, or history.

21 (2) No more than two members of the Commission
22 may be members of the same political party.

23 (3)(A) Each member of the Commission shall be ap-
24 pointed for a term of four years, except as provided in
25 subparagraph (B).

1 (B) As designated by the President at the time of
2 appointment, of the members first appointed—

3 (i) one shall be appointed for a term of two
4 years;

5 (ii) one shall be appointed for a term of three
6 years; and

7 (iii) one shall be appointed for a term of four
8 years.

9 (4) Any vacancy in the Commission shall not affect
10 its powers, but shall be filled in the same manner in which
11 the original appointment was made. Any member ap-
12 pointed to fill a vacancy occurring before the expiration
13 of the term for which the member's predecessor was ap-
14 pointed shall be appointed only for the remainder of that
15 term. A member may serve after the expiration of that
16 member's term until a successor has taken office.

17 (5)(A) Each member of the Commission not other-
18 wise employed by the United States Government shall re-
19 ceive compensation at a rate equal to the daily equivalent
20 of the annual rate of basic pay prescribed for level V of
21 the Executive Schedule under section 5316 of title 5, Unit-
22 ed States Code, for each day, including traveltime, such
23 member is engaged in the actual performance of duties
24 authorized by the Commission.

1 (B) Except as provided in subparagraph (C), a mem-
2 ber of the Commission who is otherwise an officer or em-
3 ployee of the United States Government shall serve on the
4 Commission without additional compensation, but such
5 service shall be without interruption or loss of civil service
6 status or privilege.

7 (C) All members of the Commission shall be reim-
8 bursed for travel and per diem in lieu of subsistence ex-
9 penses during the performance of duties of the Commis-
10 sion while away from home or their regular place of busi-
11 ness, in accordance with subchapter I of chapter 57 of
12 title 5, United States Code.

13 (6) At the time appointments are made under para-
14 graph (1), the President shall designate one of such ap-
15 pointees as Chairman of the Commission.

16 (c) MEETINGS AND PROCEDURES.—(1) The Commis-
17 sion shall hold its first meeting no later than 30 days after
18 the date on which all members of the Commission have
19 been appointed and confirmed by the Senate.

20 (2) Two members of the Commission shall constitute
21 a quorum for the transaction of business.

22 (3) The Commission may adopt such rules (consistent
23 with the provisions of this Act) as may be necessary to
24 establish its procedures and to govern the manner of its
25 operations, organization, and personnel.

1 (4) The principal office of the Commission shall be
2 in the District of Columbia.

3 (d) DUTIES.—The Commission shall carry out the
4 duties assigned to the Commission by this Act, and shall
5 meet the requirements imposed on the Commission by this
6 Act.

7 (e) POWERS AND AUTHORITIES.—(1) Subject to such
8 rules and regulations as may be adopted by the Commis-
9 sion, the Chairman of the Commission is authorized to—

10 (A) appoint, terminate, and fix the compensa-
11 tion (without regard to the provisions of title 5,
12 United States Code, governing appointments in the
13 competitive service, and without regard to the provi-
14 sions of chapter 51 and subchapter III of chapter 53
15 of such title, or of any other provision of law, relat-
16 ing to the number, classification, and General
17 Schedule rates) of an Executive Director of the
18 Commission and of such other personnel as the
19 Chairman deems advisable to assist in the perform-
20 ance of the duties of the Commission, at a rate not
21 to exceed a rate equal to the daily equivalent of the
22 annual rate of basic pay prescribed for level V of the
23 Executive Schedule under section 5316 of title 5,
24 United States Code; and

1 (B) procure, as authorized by section 3109(b)
2 of title 5, United States Code, temporary and inter-
3 mittent services to the same extent as is authorized
4 by law for agencies in the executive branch, but at
5 rates not to exceed the daily equivalent of the annual
6 rate of basic pay prescribed for level V of the Execu-
7 tive Schedule under section 5316 of such title.

8 (2) The Commission is authorized to—

9 (A) hold such hearings and sit and act at such
10 times;

11 (B) take such testimony;

12 (C) have such printing and binding done;

13 (D) enter into such contracts and other ar-
14 rangements, subject to the availability of funds;

15 (E) make such expenditures; and

16 (F) take such other actions,

17 as the Commission may deem advisable. Any member of
18 the Commission may administer oaths or affirmations to
19 witnesses appearing before the Commission.

20 (3)(A) The Commission is authorized to secure di-
21 rectly from any officer, department, agency, establish-
22 ment, or instrumentality of the Federal Government such
23 information as the Commission may require for the pur-
24 pose of this Act, and each such officer, department, agen-
25 cy, establishment, or instrumentality is authorized and di-

1 rected to furnish, to the extent permitted by law, such in-
 2 formation, suggestions, estimates, and statistics directly to
 3 the Commission, upon request made by the Chairman of
 4 the Commission.

5 (B) Upon the request of the Chairman of the Com-
 6 mission, the head of any Federal department, agency, or
 7 instrumentality is authorized to make any of the facilities
 8 and services of such department, agency, or instrumentality
 9 available to the Commission and detail any of the per-
 10 sonnel of such department, agency, or instrumentality to
 11 the Commission, on a nonreimbursable basis, to assist the
 12 Commission in carrying out its duties under this section.

13 (C) The Commission may use the United States mails
 14 in the same manner and under the same conditions as
 15 other departments and agencies of the United States.

16 (f) FEDERAL ADVISORY COMMITTEE ACT.—The pro-
 17 visions of the Federal Advisory Committee Act shall not
 18 apply to the Commission.

19 **SEC. 5. PETITIONS FOR RECOGNITION AND LETTERS OF IN-**
 20 **TENT.**

21 (a) IN GENERAL.—(1) Any Indian group may submit
 22 to the Commission a petition requesting that the Commis-
 23 sion recognize that the Indian group is an Indian tribe.

24 (2) Indian groups that have been denied or refused
 25 recognition as an Indian tribe under regulations pre-

1 scribed by the Secretary shall be entitled to an adjudica-
2 tory hearing, under section 9 of this Act, before the Com-
3 mission. For purposes of the adjudicatory hearing, the As-
4 sistant Secretary's final determination shall be considered
5 a preliminary determination under section 8(b)(1)(B) of
6 this Act.

7 (3) The provisions of this Act do not apply to the
8 following groups or entities, which shall not be eligible for
9 recognition under this Act—

10 (A) Indian tribes, organized bands, pueblos,
11 communities, and Alaska Native entities which are
12 recognized by the Secretary as of the date of enact-
13 ment of this Act as eligible to receive services from
14 the Bureau;

15 (B) splinter groups, political factions, commu-
16 nities, or groups of any character which separate
17 from the main body of an Indian tribe that, at the
18 time of such separation, was recognized as being an
19 Indian tribe by the Secretary, unless it can be clear-
20 ly established that the group, faction, or community
21 has functioned throughout history until the date of
22 such petition as an autonomous Indian group; and

23 (C) any Indian group whose relationship with
24 the Federal Government was expressly terminated
25 by an Act of Congress.

1 (4)(A) No later than 30 days after the date on which
2 all of the members of the Commission have been appointed
3 and confirmed by the Senate, the Secretary shall transfer
4 to the Commission all petitions pending before the Depart-
5 ment. The Secretary shall also transfer all letters of intent
6 previously received by the Department that request the
7 Secretary, or the Federal Government, to recognize or ac-
8 knowledge an Indian group as an Indian tribe, except
9 those groups who request in writing that their petitions
10 be retained by the Department.

11 (B) On the date of such transfer, the Secretary and
12 the Department shall cease to have any authority to recog-
13 nize or acknowledge, on behalf of the Federal Government,
14 any Indian group as an Indian tribe, except those groups
15 that request in writing that their petitions be retained by
16 the Department for final disposition.

17 (C) Petitions and letters of intent transferred to the
18 Commission under subparagraph (A) of this paragraph
19 shall, for purposes of this Act, be considered as having
20 been submitted to the Commission in the same order as
21 they were submitted to the Department.

22 (b) PETITION FORM AND CONTENT.—Except as pro-
23 vided in subsection (c), any petition submitted under sub-
24 section (a) by an Indian group shall be in any readable
25 form that clearly indicates that the petition is one request-

1 ing the Commission to recognize the petitioning Indian
2 group as an Indian tribe. Each petition shall contain spe-
3 cific evidence establishing criteria numbered (1), (2), and
4 (3) below, and at least one of the criterion numbered (4),
5 (5), (6), or (7) below:

6 (1) The group has been identified as “Indian,
7 Native American, or Aboriginal” since at least 1934
8 and individual members thereof have demonstrable
9 Indian ancestry. Such continuing Indian identifica-
10 tion of the group may include identification as a di-
11 vision of, combination of, or confederation with, spe-
12 cific Indian tribes. Evidence that the character of
13 the group as Indian has from time to time been de-
14 nied shall not be considered to be conclusive evidence
15 that this criterion has not been met. Evidence that
16 the Commission may rely on in determining the In-
17 dian identity of a group and the Indian ancestry of
18 individual members thereof may include any one or
19 more of the following items:

20 (A) Identification as Indian by any depart-
21 ment, agency, or instrumentality of the Federal
22 Government.

23 (B) Identification as Indian by the State
24 government where the group is principally lo-
25 cated.

1 (C) Identification as Indian by a county or
2 political subdivision of the State where the
3 group is principally located.

4 (D) Identification as Indian by records in
5 a private or public archive, courthouse, church,
6 or school.

7 (E) Identification as Indian by anthropolo-
8 gists, historians, or other scholars.

9 (F) Identification as Indian in newspapers,
10 books, or similar medium.

11 (G) Identification as Indian by another In-
12 dian tribe or by a national, regional, or State
13 Indian organization.

14 (H) Identification as Indian by a foreign
15 government or an international organization.

16 (I) Other evidence of Indian identity that
17 may be provided by a person or entity other
18 than the petitioner or a member of the petition-
19 ing group.

20 (2) The exercise of political authority or influ-
21 ence over the members of the group since 1934
22 through a mechanism or process for making group
23 decisions:

24 (A) The Commission shall consider the pe-
25 titioner to have conclusively established this cri-

1 terion if the petitioner demonstrates any one of
2 the following—

3 (i) the existence of political leaders
4 with a description of means of selection,

5 (ii) more than 50 percent of the mem-
6 bers of the group reside in a particular
7 geographical area and the balance of the
8 group maintains social interaction with
9 some members of the group, or

10 (iii) not less than 50 percent of the
11 marriages in the group are between mem-
12 bers of the group.

13 (B) The provisions of the foregoing sub-
14 paragraph 5(b)(2)(A) do not constitute the ex-
15 clusive tests for establishing this criterion. The
16 Commission shall examine and consider such
17 other evidence as a petitioner submits to rea-
18 sonably satisfy this criterion, without regard to
19 a petitioner's failure to address, the elements of
20 the foregoing subparagraph 5(b)(2)(A).

21 (3) A description of the group's current mem-
22 bership criteria and a roll, showing full names, ad-
23 dresses, and birth dates of members.

1 (4) The existence of distinct social boundaries
2 that separate the group's current members from
3 nonmembers.

4 (5) The members of the group have exercised,
5 with or without Federal supervision or support, col-
6 lective or communal rights in land, funds, fishing, or
7 subsistence activities.

8 (6) The group retains evidence of or currently
9 utilizes an identified American Indian language or
10 has customary rituals, performances, or other activi-
11 ties or customs recognized as markers of an Indian
12 community.

13 (7) Recognition of the group as an Indian tribe
14 by the State in which the group is principally located
15 since 1934.

16 (c) PETITIONS CLAIMING PREVIOUS FEDERAL REC-
17 OGNITION.—A petition from an Indian group that dem-
18 onstrated that the group was, or is, the successor in inter-
19 est to, a—

20 (1) party to a treaty or treaties;

21 (2) group acknowledged by an agency of the
22 Federal Government as eligible to participate under
23 the Act of June 18, 1934 (commonly referred to as
24 the “Indian Reorganization Act”) (48 Stat. 984 et
25 seq., chapter 576; 25 U.S.C. 461 et seq.);

1 (3) group for the benefit of which the United
2 States took lands into trust; or

3 (4) group that has been denominated a tribe by
4 an Act of Congress or Executive order,
5 shall be required to establish contemporary political lead-
6 ership, with a time depth limited to 10 years preceding
7 the date of the petition.

8 (d) ACTION BY COMMISSION.—The Commission shall
9 recognize as an Indian tribe a petitioning group that dem-
10 onstrates the criteria set out in subsection (b) or (c) herein
11 by a preponderance of the evidence.

12 **SEC. 6. NOTICE OF RECEIPT OF PETITION AND LETTERS OF**
13 **INTENT.**

14 (a) PETITIONER.—Within 30 days after a petition is
15 submitted or transferred to the Commission under section
16 5(a), the Commission shall send an acknowledgement of
17 receipt in writing to the petitioner and shall have pub-
18 lished in the Federal Register a notice of such receipt, in-
19 cluding the name, location, and mailing address of the pe-
20 titioner and such other information that will identify the
21 entity who submitted the petition and the date the petition
22 was received by the Commission. The notice shall also in-
23 dicate where a copy of the petition may be examined.

24 (b) LETTERS OF INTENT.—As to letters of intent,
25 publish in the Federal Register a notice of such receipt,

1 including the name, location, and mailing address of peti-
2 tioner. A petitioner who has submitted a letter of intent
3 or had a letter of intent transferred to the Commission
4 under section 5(a) shall not be required to submit a docu-
5 mented petition within any time period.

6 (c) OTHERS.—The Commission shall also notify, in
7 writing, the Governor and attorney general of, and each
8 recognized Indian tribe within, any State in which a peti-
9 tioner resides.

10 (d) PUBLICATION; OPPORTUNITY FOR SUPPORTING
11 OR OPPOSING SUBMISSIONS.—The Commission shall pub-
12 lish the notice of receipt of the petition in a major news-
13 paper of general circulation in the town or city nearest
14 the location of the petitioner. The notice shall include, in
15 addition to the information described in subsection (a), no-
16 tice of opportunity for other parties to submit factual or
17 legal arguments in support of or in opposition to, the peti-
18 tion. Such submissions shall be provided to the petitioner
19 upon receipt by the Commission. The petitioner shall be
20 provided an opportunity to respond to such submissions
21 prior to a determination on the petition by the Commis-
22 sion.

23 **SEC. 7. PROCESSING THE PETITION.**

24 (a) REVIEW.—(1) Upon receipt of a documented peti-
25 tion, the Commission shall conduct a review to determine

1 whether the petitioner is entitled to be recognized as an
2 Indian tribe.

3 (2) The review conducted under paragraph (1) shall
4 include consideration of the petition, supporting evidence,
5 and the factual statements contained in the petition.

6 (3) The Commission may also initiate other research
7 for any purpose relative to analyzing the petition and ob-
8 taining additional information about the petitioner's sta-
9 tus and may consider any evidence which may be submit-
10 ted by other parties.

11 (4) Upon request by the petitioner, the Library of
12 Congress and the National Archives shall each allow ac-
13 cess to the petitioner to its resources, records, and docu-
14 ments, for the purpose of conducting research and prepar-
15 ing evidence concerning the status of the petitioner.

16 (b) CONSIDERATION.—(1) Except as otherwise pro-
17 vided in this subsection, petitions shall be considered on
18 a first come, first served basis, determined by the date
19 of the original filing of the petition with the Commission,
20 or the Department if the petition is one transferred to the
21 Commission pursuant to section 5(a). The Commission
22 shall establish a priority register including those petitions
23 pending before the Department on the date of enactment
24 of this Act.

1 (2) Petitions that are submitted to the Commission
2 by Indian groups that meet one or more of the require-
3 ments set forth in section 5(c) shall receive priority consid-
4 eration over petitions submitted by any other Indian
5 group.

6 **SEC. 8. PRELIMINARY HEARING.**

7 (a) IN GENERAL.—Within 60 days after the receipt
8 of a petition by the Commission, the Commission shall set
9 a date for a preliminary hearing. At the preliminary hear-
10 ing, the petitioner and any other concerned party may pro-
11 vide evidence concerning the status of the petitioner.

12 (b) DETERMINATION.—(1) Within 30 days after the
13 conclusion of the preliminary hearing under subsection
14 (a), the Commission shall make a determination either—

15 (A) to extend Federal acknowledgement to the
16 petitioner; or

17 (B) that the petitioner proceed to an adjudica-
18 tory hearing.

19 (2) The Commission shall publish the determination
20 in the Federal Register.

21 (c) INFORMATION TO BE PROVIDED PREPARATORY
22 TO AN ADJUDICATORY HEARING.—(1) If the Commission
23 determines under subsection (b) that the petitioner pro-
24 ceed to an adjudicatory hearing, the Commission shall—

1 (A) immediately make available to the peti-
2 tioner all records relied upon by the Commission and
3 its staff in making the preliminary determination to
4 assist the petitioner in preparing for the adjudica-
5 tory hearing, and shall also include such guidance as
6 the Commission considers necessary or appropriate
7 to assist the petitioner in preparing for the hearing
8 including references to prior decisions of the Com-
9 mission or to recognition decisions made under regu-
10 lations prescribed by the Secretary that will provide
11 direction in preparing for the adjudicatory hearing;
12 and if prior recognition decisions are referred to, the
13 Commission will make all records relating to such
14 decisions available to the petitioner in a timely man-
15 ner; and

16 (B) within 30 days after the conclusion of the
17 preliminary hearing under subsection (a), notify the
18 petitioner in writing, which notice shall include a list
19 of any deficiencies or omissions on which the Com-
20 mission relied in making its determination.

21 (2) The list of deficiencies and omissions provided
22 under paragraph (1)(B) shall be the subject of the adju-
23 dicatory hearing. The Commission may not add to this list
24 once it is issued.

1 **SEC. 9. ADJUDICATORY HEARING.**

2 (a) IN GENERAL.—Within 180 days after the conclu-
3 sion of the preliminary hearing, the Commission shall af-
4 ford the petitioner described in section 8(b)(1)(B) an adju-
5 dicatory hearing. The hearing shall be on the list of defi-
6 ciencies and omissions provided under section 8(c)(1)(B)
7 and shall be conducted on the record pursuant to sections
8 554, 556, and 557 of title 5, United States Code.

9 (b) TESTIMONY FROM STAFF OF COMMISSION.—The
10 Commission shall require testimony from its acknowledge-
11 ment and research staff that worked on the preliminary
12 determination and that are assisting the Commission in
13 the final determination under subsection (d) and may re-
14 quire the testimony of other witnesses. Any such testimony
15 shall be subject to cross-examination by the petitioner.

16 (c) EVIDENCE BY PETITIONER.—The petitioner may
17 provide such evidence as the petitioner deems appropriate.

18 (d) DECISION BY COMMISSION.—Within 60 days
19 after the end of the hearing held under subsection (a),
20 the Commission shall—

21 (1) make a determination as to the extension or
22 denial of Federal acknowledgment to the petitioner;

23 (2) publish its determination under paragraph
24 (1) in the Federal Register; and

25 (3) deliver a copy of the determination to the
26 petitioner, and to every other interested party.

1 **SEC. 10. APPEALS.**

2 (a) IN GENERAL.—Within 60 days after the date the
3 Commission’s decision is published under section 9(d), the
4 petitioner may appeal the determination to the United
5 States District Court for the District of Columbia.

6 (b) ATTORNEY FEES.—If the petitioner prevails in
7 the appeal described in subsection (a), it shall be eligible
8 for an award of reasonable attorney fees and costs under
9 the provisions of section 504 of title 5, United States
10 Code, or section 2412 of title 28 of such Code, as the case
11 may be.

12 **SEC. 11. IMPLEMENTATION OF DECISIONS.**

13 (a) ELIGIBILITY FOR SERVICES AND BENEFITS.—(1)
14 Subject to paragraph (2), upon recognition by the Com-
15 mission that the petitioner is an Indian tribe, the Indian
16 tribe shall be eligible for the services and benefits from
17 the Federal Government that are available to other feder-
18 ally recognized Indian tribes by virtue of their status as
19 Indian tribes with a government-to-government relation-
20 ship with the United States, as well as having the respon-
21 sibilities and obligations of such Indian tribes. Such rec-
22 ognition shall subject the Indian tribes to the same au-
23 thority of Congress and the United States to which other
24 federally recognized tribes are subject.

25 (2) Recognition of the Indian tribe under this Act
26 does not create an immediate entitlement to existing pro-

1 grams of the Bureau. Such programs shall become avail-
2 able upon appropriation of funds by law. Requests for ap-
3 propriations shall follow a determination under subsection
4 (b) of the needs of the newly recognized Indian tribe.

5 (b) NEEDS DETERMINATION.—Within 6 months
6 after an Indian tribe is recognized under this Act, the ap-
7 propriate area offices of the Bureau and the Indian Health
8 Service shall consult and develop in cooperation with the
9 Indian tribe, and forward to the respective Secretary, a
10 determination of the needs of the Indian tribe and a rec-
11 ommended budget required to serve the newly recognized
12 Indian tribe. The recommended budget shall be considered
13 along with recommendations by the appropriate Secretary
14 in the budget-request process.

15 **SEC. 12. ANNUAL REPORT CONCERNING COMMISSION'S AC-**
16 **TIVITIES.**

17 (a) LIST OF RECOGNIZED TRIBES.—Not later than
18 90 days after the date of the enactment of this Act, and
19 annually on or before every January 30 thereafter, the
20 Commission shall publish in the Federal Register a list
21 of all Indian tribes which are recognized by the Federal
22 Government and receiving services from the Bureau of In-
23 dian Affairs.

24 (b) ANNUAL REPORT.—Beginning one year after the
25 date of the enactment of this Act, and annually thereafter,

1 the Commission shall submit a report to the Committee
2 on Natural Resources of the House of Representatives and
3 to the Committee on Indian Affairs of the Senate a report
4 on its activities, which shall include at a minimum the fol-
5 lowing:

6 (1) The number of petitions pending at the be-
7 ginning of the year and the names of the petitioners.

8 (2) The number of petitions received during the
9 year and the names of the petitioners.

10 (3) The number of petitions the Commission
11 approved for acknowledgment and the names of the
12 acknowledged petitioners.

13 (4) The number of petitions the Commission
14 denied for acknowledgment and the names of the pe-
15 titioners.

16 (5) The status of all pending petitions and the
17 names of the petitioners.

18 **SEC. 13. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

19 Any petitioner may bring an action in the district
20 court of the United States for the district in which the
21 petitioner resides, or the United States District Court for
22 the District of Columbia, to enforce the provisions of this
23 Act, including any time limitations within which actions
24 are required to be taken, or decisions made, under this
25 Act and the district court shall issue such orders (includ-

1 ing writs of mandamus) as may be necessary to enforce
2 the provisions of this Act.

3 **SEC. 14. REGULATIONS.**

4 The Commission is authorized to prescribe such regu-
5 lations as may be necessary to carry out the provisions
6 and purposes of this Act. All such regulations must be
7 published in accordance with the provisions of title 5,
8 United States Code.

9 **SEC. 15. GUIDELINES AND ADVICE.**

10 (a) GUIDELINES.—No later than 180 days after peti-
11 tions and letters of intent have been transferred to the
12 Commission by the Secretary under section 5(a)(4)(A),
13 the Commission shall make available suggested guidelines
14 for the format of petitions, including general suggestions
15 and guidelines on where and how to research required in-
16 formation, but such examples shall not preclude the use
17 of any other format.

18 (b) RESEARCH ADVICE.—The Commission, upon re-
19 quest, is authorized to provide suggestions and advise to
20 any petitioner for his research into the petitioner’s histori-
21 cal background and Indian identity. The Commission shall
22 not be responsible for the actual research on behalf of the
23 petitioner.

1 **SEC. 16. ASSISTANCE TO PETITIONERS.**

2 (a) GRANTS.—(1) The Secretary of Health and
3 Human Services may award grants to Indian groups seek-
4 ing Federal recognition to enable the Indian groups to—

5 (A) conduct the research necessary to substan-
6 tiate petitions under this Act; and

7 (B) prepare documentation necessary for the
8 submission of a petition under this Act.

9 (2) The grants made under this subsection shall be
10 in addition to any other grants the Secretary of Health
11 and Human Services is authorized to provide under any
12 other provision of law.

13 (b) COMPETITIVE AWARD.—Grants provided under
14 subsection (a) shall be awarded competitively based on ob-
15 jective criteria prescribed in regulations promulgated by
16 the Secretary of Health and Human Services.

17 **SEC. 17. SEVERABILITY.**

18 If any provision of this Act or the application thereof
19 to any petitioner is held invalid, the invalidity shall not
20 affect other provisions or applications of the Act which
21 can be given effect without regard to the invalid provision
22 or application, and to this end the provisions of this Act
23 shall be severable.

24 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

25 (a) COMMISSION.—There are authorized to be appro-
26 priated for the Commission for the purpose of carrying

1 out the provisions of this Act (other than section 16),
2 \$1,500,000 for fiscal year 1997 and \$1,500,000 for each
3 of the 12 succeeding fiscal years.

4 (b) SECRETARY OF HHS.—There are authorized to
5 be appropriated for the Administration for Native Ameri-
6 cans of the Department of Health and Human Services
7 for the purpose of carrying out the provisions of section
8 16, \$3,000,000 for each fiscal year.

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